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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 17 April 2003 from the Permanent Mission of Mauritius to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to forward herewith the report of Mauritius on the implementation of resolution 1455 (2003), adopted by the Security Council on 17 January 2003.

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Annex to the note verbale dated 17 April 2003 from the Permanent Mission of Mauritius addressed to the Chairman of the Committee

Report on the implementation of United Nations Security Council resolution 1455 (2003)

1. INTRODUCTION

Mauritius has been supportive of all international initiatives to combat international terrorism. In August 2002, when Mauritius submitted its report pursuant to para 2 of Resolution 1390 (2002), the 1267 Committee was informed of the measures put in place by the authorities to implement UNSC resolution 1390 (2002).

Following the enactment of the Prevention of Terrorism Act 2002, the Financial Intelligence and Anti-Money Laundering Act 2002 and the Prevention of Corruption Act 2002, the Prevention of Terrorism (Special Measures) Regulations were passed and came into operation on 25 January 2003. These regulations were amended to cater for obligations under UNSC resolution 1452(2002) and the Prevention of Terrorism (Special Measures)(Amendment) Regulations came into effect on 29 March 2003. (A copy of the Regulations is at annex 1) *

The Committee of Senior Officials set up by the Government of Mauritius to monitor implementation of UNSC resolutions 1390 (2001) and 1455 (2003) as well as other UNSC resolutions to combat terrorism including UNSC 1373 (2001) is coordinating with various Ministries and departments for proper implementation of the obligations of Mauritius under these resolutions.

The 1267 Committee may wish to note that so far no activity of Usama Bin Laden, Al Qaida, the Taliban and their associates has been reported in Mauritius.

II Consolidated List

2. ***How has the 1267 Committee list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control customs and consular authorities?***

Provision has been made for the incorporation of the 1267 Committee list in Part II, section 10 (1) (b) (c) (4) of the Prevention of Terrorism Act. Subsection (1) allows the Minister to declare any person to be a suspected international terrorist, *inter alia*, where

(I) the person is listed as a person involved in terrorist acts in any **Resolution of the United Nations Security Council** or any instrument of the Council of the European Union; or

* The enclosure referred to in the report is on file with the Secretariat, room S-3055, and is available for consultation.

(ii) the person is considered as a person involved in terrorist acts by such State or other organization as the Minister may approve.

As per section 10(4), the Minister may declare a group to be an international terrorist group if the group, *inter alia*:

(i) is listed as a group or entity involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or
(ii) is considered as a group or entity involved in terrorist acts by such competent authority of such State as the Minister may approve.

As per section 10(6) of the Prevention of Terrorism Act 2002, the Minister may, with respect to any suspected international terrorist or international terrorist group, make regulations to provide:

(i) for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property, owned or controlled directly or indirectly by him or it, by persons acting on his or its behalf or at his or its direction;
(ii) for the prevention of his or its entry into, or transit in, Mauritius;
(iii) for the prohibition of the direct or indirect supply, sale and transfer to him or it of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material and technical advice, assistance or training related to military activities;
(iv) that any person who contravenes any regulations made under this subsection shall commit an offence and shall, on conviction, be liable to penal servitude for a period not exceeding 5 years

As per section 10(7) of the Act, the Minister shall give notice of any declaration made under subsections (1) and (4) of section 10.

As soon as the 1267 Committee list is received at the Ministry of Foreign Affairs and Regional Cooperation, it is communicated to the financial supervision authorities and law enforcement agencies for necessary action at their end.

2.1 Financial Supervision Authorities

(a) Bank of Mauritius

The Bank of Mauritius by virtue of regulatory powers vested upon it, provides all institutions under its jurisdiction with the UNSC Consolidated List as updated from time to time and requires those institutions to report to the Bank of Mauritius any account which the persons or organizations mentioned in the Consolidated List hold with them and to seek the approval of the Bank of Mauritius before executing any request for any transactions in respect of these persons/organizations.

(b) Financial Services Commission

The Financial Services Commission (FSC) has been following diligently all the obligations of Mauritius under relevant United Nations Resolutions in particular, resolutions 1373 (2001), 1390 (2002), 1455 (2003) in respect of combating the financing of terrorist activities

All UNSC resolutions with respect to combating the financing of terrorism are sent to the licensees in the financial services sector with express instructions that the necessary checks must be carried out and that any exceptions should be reported to the Commission. The Financial Services Commission has also updated its statistical data and check for possible links with names listed by the UN Security Council. So far, neither the FSC nor any of its licensees has identified any link with any suspected terrorists or terrorist organisation

2.2 Law Enforcement Agencies

Police Department (including Immigration)

All the names and entities in the 1267 Committee Consolidated list have been added to the control list of the Passport and Immigration Office and are regularly updated in accordance with the provisions of relevant UNSC resolutions including 1390(2002).

Pursuant to UNSC resolution 1390 (2002) and subsequent directives issued during security meetings by authorities in Mauritius, the contents of the resolution are communicated to responsible officers at the various branches of the Police Force to sensitise all personnel working under their orders to be more watchful and to adopt a more proactive approach towards surveillance.

The Mauritius Police Force has upgraded its security system with a view to strengthening and optimizing the use of its resources in the prevention of terrorism. The level of alertness of the entire Police Force has been heightened. Both overt and covert vigilance are maintained.

Special emphasis is being laid on security at Sir Seewoosagur Ramgoolam International Airport and Port Louis Harbour, which are the two points of entry and exit. In this context, the Immigration services have tightened control at these two strategic points where a series of measures such as closer scrutiny and verification of travel documents and passenger profiling are being carried out. Moreover, security at the harbour has been consolidated to ensure a thorough check on all vessels and craft arriving and departing. Patrols are conducted in the exclusive economic zone including major passes through which smaller craft can approach or enter Mauritius as well as the airspace of Mauritius.

3. ***Has Mauritius encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems?***

No problem of the implementation with regard to the names and identifying information included in the list has been encountered.

Additional particulars of the persons/entities/organizations listed in the list would be welcome.

4. ***Have the Mauritian authorities identified inside the territory of Mauritius any designated individuals or entities?***

There has been no evidence so far to indicate that any individual, organization or entity appearing in the 1267 Committee Consolidated List has been in the territory of Mauritius.

5. ***Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al Qaida that have not been included in the list, unless to do so would compromise investigations or enforcements actions?***

There has been no report of any terrorist related activities by any individual or entity not in the Consolidated List.

6. ***Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against the Mauritius authorities for inclusion in the list?***

No.

7. ***Has Mauritius identified any of the listed individuals as nationals or residents of Mauritius? Do your authorities have any relevant information about them not already in the list?***

None of the listed individuals has been identified as national or resident of Mauritius. Efforts are continuing to ascertain whether any listed individual is a national or resident of Mauritius.

8. ***According the national legislation, please describe any measure you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country and to prevent individuals from participating in Al-Qaida training camps established in the territory of Mauritius.***

There is no evidence of Al-Qaida training camps established in Mauritius. Part II of the Prevention of Terrorism Act 2002 prohibits acts of terrorism, terrorist meetings and

support in relation to an act of terrorism, or to a proscribed organization. "Support" includes instigation to the cause of terrorism and an invitation to adhere to a proscribed organisation.

III. FINANCIAL AND ECONOMIC ASSETS FREEZE

9 ***Please describe briefly:***

- ***The domestic legal basis to implement the asset freeze required by the resolutions 1267, (1999) and 1390 (2002)***

The Prevention of Terrorism Act 2002 was enacted on 19 February 2002 and is fully operative in Mauritius since 16 March 2002. The Act contains provisions for the freezing of funds relating to terrorism and also for the prevention, suppression and combating of terrorism, new offence relating to terrorism generally including the financing of terrorism; reinforcing intelligence gathering: investigatory and enforcement measures; cooperation with foreign jurisdictions in the matter of terrorism

Part III of the Prevention of Terrorism Act 2002 deals with the financing of terrorism and *inter-alia* provides for the freezing of assets/funds, measures relating to terrorist cash and terrorist property.

Section 13 of the Prevention of Terrorism Act 2002 provides that the Commissioner of Police, may, whether or not any proceedings have been brought for an offence in connection with the terrorist cash, seize cash when he reasonably suspects that the cash is intended to be used for the purposes of terrorism; belongs to, or is held on trust for, a proscribed organisation, is or represents property obtained through acts of terrorism. The Commissioner may seize cash even if he reasonably suspects only part of the cash to be terrorist cash where it is not reasonable to seize that part only of the cash.

An offence under Section 11 of the Prevention of Terrorism Act 2002 is punishable by penal servitude for a term not less than 5 years nor more than 20 years (Section 32(1)(b) of the Act). The Court may, also under section 32 of the Act, in addition to the penalty imposed, order the forfeiture of any terrorist cash, with any accrued interest, or terrorist property; any article, substance, device or material by means of which the offence was committed; any vehicle or vessel used in the commission of the offence.

Section 10(6) of the Prevention of Terrorism Act 2002 also enables the Minister to whom responsibility for the subject of national security is assigned to make with respect to any suspect international terrorist or an international terrorist group, regulations to provide for the freezing of his or its funds, financial assets or other economic resources, including funds derived from property owned or controlled directly or indirectly, by him or it, by persons acting on his or its behalf or its direction.

Part II of the Financial Intelligence and Anti-Money Laundering Act (2002) sets out the acts or activities, which constitute money-laundering offences. It defines a

suspicious transaction as a transaction which gives rise to .. reasonable suspicion that it may involve the laundering of money or the proceeds of any crime including any offence concerning the financing of any activities or transactions related to terrorism as specified in Part III of the Prevention of Terrorism Act.

Section 3 of the Financial Intelligence and Anti Money Laundering Act imposes on banks, financial institutions, cash dealers and professional such as accountants, lawyers, obligations to take such measures as are reasonably necessary to prevent their services being used as a channel for money laundering.

Sections 4 and 5 of the Financial Intelligence and Anti Money Laundering Act 2002 re-enact the provisions relating to offences of conspiracy to commit the offence of money laundering and payment in cash in excess of a specified amount.

A civil procedure is made before the Judge in Chambers by way of an affidavit for an order of attachment to confiscate the proceeds of crime or assets to finance terrorism as provided for under section 16 of the Prevention of Terrorism Act 2002.

The Prevention of Terrorism (Special Measures) Regulations (2003) also provide for the freezing of assets and funds of suspected international terrorists and terrorist groups.

The Mauritius authorities are also currently working for the enactment of legislation for the proper implementation of the obligations under the Convention for the Suppression of Financing of Terrorism prior to ratification of the Convention.

10. ***Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.***

The Anti-Money Laundering and Combating of Financing of Terrorism Committee (AML-CFT) comprising officials of the Prime Minister's Office, Ministry of Finance, Attorney General's Office, Ministry of Foreign Affairs & Regional Cooperation, Ministry of Economic Development, Financial Services and Corporate Affaires, Bank of Mauritius, Financial Services Commission, Financial Intelligence Unit, Commissioner of Drugs, Independent Commission Against Corruption (ICAC), Police Department coordinate action to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks or those organizations entities/persons who provide to support to them.

Section 9 of the Financial Intelligence and Anti-Money Laundering Act (2002) provides for the establishment of the Financial Intelligence Unit (FIU), which is essentially a central intelligence-gathering unit to compile information about money

laundering activities and other proceeds of crime and make it available to the investigative authorities. The FIU is already in operation.

The Mauritius Police cooperates internationally in respect of the exchange of criminal information and police cooperation through Interpol channels. The Mauritius Police has also concluded cooperation between Member States of the Southern African Development Community (SADC) which provides for cross-border investigations and operations in general and can therefore be used for counter-terrorist investigations and operations.

Mauritius has bilateral agreements with France and Madagascar regarding mutual assistance between Customs Administrations of both countries for the prevention, detection and suppression of all customs offences, including drug trafficking. Mauritius is a contracting party to the Nairobi Convention under the aegis of the World Customs Organisation which is a multilateral arrangement for assistance especially for the exchange of information and surveillance of suspected people, goods or means of transport in the fight against all types of customs offences and drug trafficking.

11. ***Please convey the steps banks and/or financial institutions are required to take to locate and identify assets attributable to, or for the benefit of Usama Bin Ladan or members of Al-Qaida or the Taliban or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.***

(a) **Bank of Mauritius**

The Bank of Mauritius provides all institutions under its jurisdiction with the UNSC Consolidated List as updated from time to time and requires those institutions to report to the Bank of Mauritius any account which the persons/organizations mentioned in the Consolidated List hold with them and to seek the approval of the Bank of Mauritius before executing any request for any transactions in respect of these persons/organizations.

Mindful of the risks (including reputational risks) involved, the Bank of Mauritius imposed on 5 March 2003, a deadline for financial institutions under its jurisdiction to confirm the existence or otherwise of any account or transaction with persons/organizations mentioned in the 1267 Committee Consolidated List.

It has been reported to the Bank by: -

(i) Category 1 banks (formerly domestic banks), Category 2 banks, (formerly offshore banks) and non-bank deposit taking institutions that the persons/organizations mentioned in the Cousolidated List issued by the 1267 Committee do not maintain any account with them.

(ii) Foreign exchange dealers and moneychangers that those persons/organizations have not executed any transactions with them.

The Bank of Mauritius also issued, in January 2001, Anti-Money Laundering Guidance Notes for the financial services sector. These Guidance Notes, which were initially in relation to money laundering, have now been revised and updated to include legislative changes that have taken place in Mauritius both in relation to Anti-Money Laundering and Combating the Financing of Terrorism, the recommendations made by the Basel Committee on Banking Supervision in the Customer Due Diligence paper for Banks and the Guidance for Financial Institutions in detecting Terrorist Financing issued by the Financial Action Task Force.

The Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism also contain provisions on ***"Know Your Customer"*** procedures, internal controls, record-keeping, recognition and reporting of suspicious transactions, education and training in respect of anti-money laundering and the financing of terrorism.

Compliance with the required law and regulations and Guidance Notes issued by the Bank of Mauritius is monitored through off-site and on-site supervision regularly carried out by the Bank of Mauritius.

Furthermore, Regulations under section 10(6) of the Prevention of Terrorism Act (2002) have been enacted and are in force in Mauritius as from 25 January 2003. These Regulations empower the Bank, by notice, to direct that any account, property or funds held by financial institutions under its regulating authority on behalf of any listed terrorist be frozen and a report made to it in such form and manner as it deems fit.

(b) Financial Services Commission

In addition to existing legislative measures, the Financial Services Commission has finalised three separate Codes on the Prevention of Money- Laundering and Terrorist Financing which are applicable to Management Companies and Investment Businesses respectively. These Codes will come into force on 18 April 2003.

These Codes set out the minimum criteria that the Financial Services Commission will use to assess how its licensees in the financial services sector in Mauritius have protected their business from potential abuse by money launderers and terrorists. These Codes further stress the importance of the ***"Know Your Customer"*** procedures and the requirement for licensees to verify the identity of all clients.

Moreover, the Financial Services Commission has enhanced its approach to onsite compliance testing. Through an ongoing cycle of visits, the Financial Services Commission, *inter-alia*, ensures that the due diligence procedures and other requirements in respect of money laundering and financing of terrorism are being adhered to by its licensees.

12. ***Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a***

list of the assets that have been frozen pursuant to resolution 1267 (1999), 1333 (2001) and 1390(2002). Please include to the extent possible in each listing the following information:

- *Identification(s) of the person or entities whose assets have been frozen*
- *A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, work of art, real estate property and other assets)*
- *The value of assets frozen*

So far, as no transaction in connection to the individuals and entities listed by the UNSC 1267 Committee has been reported in Mauritius, there has been no freezing of assets.

13. *Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide, reasons, amounts unfrozen or leased and dates.*

No financial assets or economic assets believed to be related to Usama Bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities have been reported in Mauritius.

14. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), states are to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.*

The existing legislation (Prevention of Terrorism Act (2002), Financial Intelligence and Anti-Money Laundering Act 2002 and the Prevention of Terrorism (Special Measures) Regulations 2003 provide the legal framework to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.

The relevant Departments (Financial Services Commission, Bank of Mauritius, Financial Intelligence Unit and Department of Police) are monitoring closely to ensure that no funds, financial assets or economic resources are made available directly or indirectly to listed individuals.